SECTION-BY-SECTION ANALYSIS

To Accompany a Draft Bill

"To amend title 5, United States Code, to establish a Federal Employees' Retirement System to Supplement Social Security Benefits, and for other purposes."

The first section titles the bill as the "Federal Employees' Retirement System Act of 1985."

Section 2 contains amendments to chapter 83 of title 5, United States Code, designed to establish a system to provide additional retirement income to those Federal employees who are covered by Social Security.

Subsection 2(a) establishes the Federal Employees' Retirement System by adding a new subchapter IV as follows:

Section 8351. Purpose

This section states that the purposes of this subchapter are to establish a Federal Employees' Retirement System so that employees of the United States who are covered by Social Security may supplement those benefits with deferred compensation in the form of retirement, survivor, and disability benefits, and to encourage and facilitate savings by such employees.

Section 8352. Definitions

Paragraph [1] of this section defines "employee" as including: an employee as defined in section 2105 of title 5, United States Code; a Member of Congress as defined in section 2106 of that title; a Congressional employee as defined in section 2107 of that title; an employee of the United States Postal Service or the Postal Rate Commission; and an individual appointed to the office staff of a former President under section 1(b) of the Act of August 25, 1958; and excluding: a justice or judge of the United States, as defined by section 451 of title 28, United States Code; an individual subject to another retirement system for employees of the United States; and an individual who performs temporary or intermittent service (but not individuals hired for part-time career employment as defined in section 3401(2) of title 5, United States Code) and is excluded on that basis by regulations of the Office of Personnel Mangement in the case of an individual employed by an executive agency, or the appointing official or head of an employing agency outside the executive branch.

Paragraph (2) of this section defines "wages" to be as defined in section 3121(a) of title 26, United States Code, including remuneration excluded by paragraph (1) of such section 3121(a).

Paragraph (3) of this section defines "Fund" as the Federal Employees' Retirement Fund established under by 8358 of title 5, United States Code, within the Civil Service Retirement and Disability Fund.

Paragraph (4) of this section defines "Office" as the Office of Personnel Management.

Paragraph (5) of this section defines "law enforcement officer" as an employee whose position consists of duties that primarily involve the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or the protection of officials of the United States against threats to personal safety, and is determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals.

Paragraph (6) of this section defines "firefighter" as an employee whose position consists of duties that primarily involve work directly connected with the control and extinguishment of fires and is determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals.

Section 8353. Contributions

AGENCY PAYS 11.6%

ALSO PAYS 11.6% FOR THOSE ON DISABILITY RET.

Subsection (a) of this section requires each agency employing an employee who is covered by the Federal Employees' Retirement System to contribute each pay period to the Federal Employees' Retirement Fund an amount equal to 11.6 percent of the wages of the employee. In the case of a former employee who is receiving disability benefits under section 8355 of title 5, United States Code, the agency that employed the individual prior to separation for disability is required to contribute an amount equal to 11.6 percent of the individual's final rate of basic pay, increased by the subsequent cumulative average increase in General Schedule pay rates under section 5305 of title 5, United States Code.

Subsection (b) of this section requires that, in addition to the amounts contributed under subsection (a) of this section, each agency employing a covered employee shall contribute each pay period amounts determined by the Office of Personnel Management to be appropriate under section 8358(b) of title 5, United States Code.

SURVIVOR & DISABILITY BENEFITS

Subsection (c) of this section requires that the contributions required under this section be paid from the appropriation or fund used to pay the employee involved. In the case of an elected official, the contributions must be drawn from the appropriation or fund available for payment of other salaries of the office or establishment. In the case of an employee who is paid by the Clerk of the House of Representatives, the Clerk may pay the contributions from the contingent fund of the House.

Section 8354. Employee retirement accounts; payments of benefits

Subsection (a) of this section provides that amounts contributed on behalf of an employee under section 8353(a) of title 5, Unites States Code, plus interest earned by such amounts will be held in the Federal Employees' Retirement Fund in an account for the employee until disposed of in accordance with this section. It also requires the Office of Personnel Management, in cooperation with agencies, to furnish each covered employee or former employee on whose behalf an account is being held with an annual statement of the account balance.

FORFEITURE OF BALANCE IF WORK LESS THAN ONE YEAR

Subsection (b) of this section provides that, for any employee who leaves covered employment with less than one continuous year of such service, any money in the employee's account is irrevocably forfeited for use by the Office of Personnel Mangement as provided in section 8358(b)(1) of title 5, United States Code.

Subsection (c) of this section provides that, except as specified in subsection (b) of this section, at the later of age 59 1/2 (age 50 in the case of a law enforcement officer, firefighter, or air traffic controller) or separation from covered employment, an employee or former employee may apply for and is entitled to either a lump-sum payment of the balance in the employee's account or an annuity paid on the basis of that balance as provided in subsection (d) of this section.

CHOICE OF FORMS OF PAYMENT

Subsection (d) of this section requires the Office of Personnel Management to provide for a variety of forms of annuity, including annuities for fixed terms of years, annuities for the lives of the employee and spouse (which are automatically provided to each married employee unless jointly waived by the employee and spouse), annuities for the lives of the employee and an individual having an insurable interest in the employee, and annuities which increase in response to inflation. It also requires that annuities under this system be determined in accordance with generally accepted actuarial principles and without regard to sex.

SURVIVING SPOUSE BENEFITS

Subsection (e) of this section provides that if an employee or former employee dies after completing at least 18 months of covered service, but before receiving payment of the lump-sum balance in the retirement account or an initial annuity payment, and is survived by a spouse, the surviving spouse is entitled to elect either a lump-sum payment or an annuity based on the balance in the employee's account, or, in the case of an active employee who dies while covered by the system, an amount equal to the employee's final annual rate of basic pay if that exceeds the employee's account balance.

DISTRIBUTION IF NO SURVIVING SPOUSE

Subsection (f) of this section provides that if an employee or former employee dies after completing at least one year of covered service but before receiving payment of the lump-sum balance or an initial annuity payment, and is not survived by a spouse who is entitled to benefits under subsection (e) of this section, the balance in the employee's account is to be distributed in accordance with regulations of the Office of Personnel Management which are consistent with section 8342(c) of title 5, United States Code.

Section 8355. Disability benefits

Subsection (a) of this section provides that an employee who completes 18 months of covered service, and is either disabled within the definition of disability in section 223 of the Social Security Act or determined by the Office of Personnel Management to be unable, because of disease or injury, to perform useful and efficient service in the employee's position or in any other position to which the agency could reassign the employee in the same commuting area and without a reduction in pay (taking into account benefits under subchapter VI of chapter 53 of title 5 United States Code), is entitled to disability benefits under this section.

Subsection (b) of this section provides that an employee who is entitled to disability benefits by virtue of meeting the definition in section 223 of the Social Security Act is to be paid benefits by the Office of Personnel Management equal to 60 percent of the employee's monthly rate of basic pay immediately prior to separation for disability, with that rate increased annually by the Office based on the percentage change in the Consumer Price Index. It also requires the reduction of such disability benefits by the full amount of any disability benefits received by the employee under the Social Security Act. For a employee who is entitled to disability benefits because of a determination by the Office of inability, because of disease or injury, to perform useful and efficient service in the employee's position, the subsection requires payment by the Office each month of benefits equal to 40 percent of the employee's monthly rate of basic pay immediately prior to separation for disability, with that rate increased annually by the Office based on the percentage change in the Consumer Price Index.

Subsection (c) of this section provides that disability benefits under this section commence on the first day of the first month beginning six months after the employee ceases, because of the disability, to perform useful and efficient service.

Subsection (d) of this section provides that disability benefits for an employee who is entitled on the basis of the Social Security definition of disability shall terminate on the earlier of the last day of the month in which the employee either becomes 65 years of age or is determined to no longer fall within the Social Security definition of disability. It also specifies that disability benefits for an employee who is entitled because of a determination of inability to perform useful and efficient service by the Office of Personnel Management shall terminate on the earliest of the last day of the month in which (1) the employee becomes 65 years of age, (2) the Office finds the employee medically recovered from the disability, (3) the Office determines that the employee has recovered earning capacity on the basis of evidence that the employee has been working with earnings reasonably comparable to those of the position the employee left due to disability, or (4) the employee is either reemployed by the former employing agency in a position in the same commuting area with earnings comparable to the position the employee left due to disability, or declines an offer of reemployment in such a position. In addition, subsection (d) bars the payment of disability benefits for any month during which the employee does not cooperate with any required medical examinations or course of treatment or fails to provide information under regulations of the Office.

Subsection (e) of this section requires the Social Security Administration, notwithstanding any other provision of law, to provide the Office of Personnel Management with any information it requires in administering this section.

Section 8356. Early Retirement

Subsection (a) of this section provides that a covered employee who is an air traffic controller is subject to mandatory separation in accordance with section 8335(a) of title 5, United States Code, and a covered employee who is a law enforcement officer or a firefighter is subject to mandatory separation in accordance with section 8335(b) of that title. It also specifies that section 8335(d) of that title, relating to Presidential exemptions, applies to employees covered by this section.

SPECIAL SUPPLEMENT TO LAWMEN, FIREMAN, & AIR TRAFFIC CONTROL.

Subsection (b) of this section provides that an air traffic controller, law enforcement officer, or firefighter who separates after completing 20 years of such employment (including any combination of such employment) is entitled to monthly payments from the Office of Personnel Management in an amount determined by the Office to reasonably approximate the monthly Social Security benefits the individual would receive on the basis of such employment if the individual were age 62. It also specifies that the amount of such monthly payments shall be increased annually by the Office on the basis of the percentage change in the Consumer Price Index.

AGE 50

Subsection (c) of this section provides that payments under this section commence on the later of the first day of the month after the month in which the employee or former employee becomes age 50 or the first day of the month after the month in which the employee separates from employment under the Federal Employees' Retirement System. It also specifies that such benefits end on the last day of the month in which the former employee becomes age 62.

Section 8357. Federal Employees' Savings Plan

Subsection (a) of this section establishes a Federal Employees' Savings Plan under which an employee covered by the Federal Employees' Retirement System may contribute, by means of allotments from pay, up to $5,000 per year to the employee's account in the Plan. Contributions to the Plan must be deposited in the Treasury to the credit on the Federal Employees' Retirement Fund.

CONTRIBUTION IS NOT INCOME

Subsection (b) of this section provides that amount contributed to the Federal Employees' Savings Plan are not to be included in the gross income of the employee for the purposes of title 26, United States Code, relating to internal revenue.

IRA RULES APPLY TO DISTRIBUTION

Subsection (c) of this section provides that an employee's account balance in the Federal Employees' Savings Plan is available for distribution in the same manner as an individual retirement account under section 408 of title 26, United States Code, and any distribution shall be treated for the purposes of that title as if it were a distribution from an individual retirement account.

Section 8358. Federal Employees' Retirement Fund

Subsection (a) of this section establishes within the Civil Service Retirement and Disability Fund in the Treasury of the United States a Federal Employees' Retirement Fund, which includes agency contributions under section 8353 of title 5, United States Code, employee savings under section 8357 of that title, and interest earned by the Fund. It also makes the Fund available for payment of benefits, distributions, and expenses of the Office of Personnel Management in administering subchapter IV of chapter 83 of title 5, United States Code, without regard to the limitation in section 8348(a)(2) of title 5.

AGENCY PAYS FOR UNFUNDED SURVIVOR BENEFITS, DISABILITY BENEFITS, AND ADMIN EXPENSES.

Subsection (b)(1) of this section requires the Office of Personnel Management to determine, before the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of: (A) survivor benefits under section 8354(e) of title 5, United States Code, to the extent such cost exceeds the value of deceased employees' accounts, (B) disability benefits under section 8355 of title 5, and (C) expenses incurred by the Office in administering the Federal Employees' Retirement System. It further specifies that in making such determinations the Office must consider the value of accounts forfeited under section 8354(b) of that title, and makes those accounts available to defray the cost of survivor benefits, disability benefits, and administrative expenses. The Office is then authorized to vary the normal cost so determined on an agency-by-agency basis if the Office finds it appropriate because of differences in rate of disability between agencies. Subsection (b)(2) further requires the Office to determine, before the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of payments under section 8356 of title 5 for air traffic controllers, law enforcement officers, and firefighters. Each agency employing an employee who is covered by the Federal Employees' Retirement System is required to contribute to the Fund, in addition to amounts provided in section 8353(a) of title 5, an amount equal to the percentage of wages determined under paragraph (1) of this subsection for each of the agency's covered employees and the percentage of wages determined under paragraph (2) of this subsection for each of the agency's covered employees who is an air traffic controller, law enforcement officer, or firefighter.

Section 8359. Administration; regulations

Subsection (a) of this section requires the Office of Personnel Management to administer subchapter IV of chapter 83 of title 5, United States Code, and to issue such regulations and perform or cause to be performed such acts as are necessary and proper to carry out that subchapter. In addition, the Office is authorized to enter into contracts, without regard to section 5 of title 41, United States Code, or other statute requiring competitive bidding, for the performance of any of the functions for which the Office is responsible under that subchapter.

Subsection (b) of this section requires claims to be in such form as the Office of Personnel Management may dictate and requires agencies to support such claims with such certification as the Office decides is needed to determine the rights of applicants. In addition, the Office or its designee is required to adjudicate all claims.

Subsection (c) of this section provides in paragraph (1) that, except as otherwise provided in paragraph (2) of this subsection or in other Federal laws, the money referred to in subchapter IV of chapter 83 of title 5, United States Code, is not assignable in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process. It then provides in paragraph (2) that, notwithstanding any other provision of that subchapter, the Office shall regulate to provide rights and benefits for spouses and former spouses consistent with those provided under subchapter III of chapter 83, of title 5, United States Code.

Subsection (d) of this section provides that recovery of overpayments will be made under regulations of the Office of Personnel Management, which may include reduction of subsequent payments to the overpaid individual. It also permits waiver of recovery if the Office determines, in its sole discretion and under procedures it determines to be appropriate, that the individual is not at fault and that recovery would be contrary to equity and good conscience.

Subsection (e) of this section provides that the Office will consult with the same Board of Actuaries that advises on the Civil Service Retirement System on the actuarial status of the new Federal Employees' Retirement System.

EMPLOYEE UNDER OLD SYSTEM CAN SWITCH TO NEW.

Subsection (f) of this section permits the Office of Personnel Management to bring under the Federal Employees' Retirement System any individual who was covered by the Civil Service Retirement System and who elects in writing before January 1, 1987, to transfer. For purposes of determining coverage under Social Security and Civil Service Retirement, it also deems an individual who so elects to have first become employed by the United States after December 31, 1983. It requires the transfer and crediting to such employee's account under section 8354(a) of title 5, United States Code, of the individual's contributions, matching agency contributions, and interest on both, under the Civil Service Retirement and Disability System. In addition, the pre-transfer service of such an individual would be deemed qualifying employment for the purposes of determining entitlement to Social Security disability and survivors' benefits.

Subsection (g) of this section deems the Federal Employees' Retirement System a qualified plan for the purposes of title 26, United States Code, relating to internal revenue.

Subsection (2)(b) of the Act amends the analysis of chapter 83 of title 5, United States Code, to conform to the amendments made by subsection (a) of section 2.

Subsection (2)(c) of the Act amends section 8331 of title 5, United States Code, to exclude from the Civil Service Retirement System an employee covered by the Social Security Act by reason of having become employed by the United States after December 31, 1983, and to include only those Members of Congress who gave written notice prior to January 1, 1984, of their desire to be covered, so long as such election remains continuously in effect and the Member does not elect to terminate such coverage under section 8359(f) of title 5.

Section 3 of the Act amends section 8901(3)(A) of title 5, United States Code, to authorize coverage under the Federal Employees Health Benefits Program of annuitants who are under the Federal Employees' Retirement System, under the same conditions as apply to annuitants under other Federal retirement systems. Section 4 of the Act brings under the Federal Employees' Retirement System an employee who had been covered by the Civil Service Retirement System under section 203(a)(1) of Public Law 98-168 but who was not employed by the Government on December 31, 1983. It also provides for the transfer to the Federal Employees' Retirement Fund to the credit of the employee's account any contributions made by the employee under section 204(a) of that Public Law, the amount of the agency contribution under section 205(b) of that Public Law, the amount of any contribution deficiency with respect to that employee under section 205 of that Public Law, and an amount determined by the Office of Personnel Management to represent the interest such money earned while under the Civil Service Retirement and Disability System. In addition, such employee's Government service on and after January 1, 1984, is deemed employment under the Federal Employees' Retirement System for the purposes of subchapter IV of chapter 83 of title 5, United States Code.

1.3% contribution by post Jan 84 employees

REQUIREMENT TO PAY OFF UNFUNDED LIABILITY

Section 5 of the Act requires the Office of Personnel Management to determine the unfunded liability (including the effects of future pay increases and future cost-of-living adjustments) of the Civil Service Retirement System, and to notify the Secretary of the Treasury of the amounts necessary to amortize that unfunded liability in 40 equal annual installments. The Secretary is then required, on September 30, 1987, and at the end of each fiscal year thereafter, to make such a payment until the unfunded liability has been paid. The Office is also authorized to adjust the amount of the annual installment to reflect actuarial gains and losses.

Section 6 of the Act makes the amendments by sections 2 and 3 effective on January 1, 1986. It also requires the Secretary of the Treasury to advance to the Office of Personnel Management such moneys as the Director may require in making administrative arrangements for the Federal Employees' Retirement System, with such money to be repaid before January 1, 1996, including interest specified by the Secretary, out of administrative expense money in Federal Employees' Retirement Fund.

<u>Section 8352</u> excludes "an individual subject to another retirement system". What about a post Jan 84 employee who subsequently is taken into CIARDS,

a. Loses subsequent 11.6% government contribution??

b. What happens to the 1.3% he paid into old fund in interim?? (Wait till 59 1/2 to get it??)

c. What about CIARDS funding for "interim" years of post Jan 84 employees?

A BILL

To amend title 5, United States Code, to establish a Federal Employees' Retirement System to supplement Social Security benefits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Retirement System Act of 1985".

Sec. 2. (a) Chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter.

"SUBCHAPTER IV--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"§8351. Purpose

"It is the purpose of this subchapter to establish a Federal Employees' Retirement System under which those employees of the United States who are subject to the provisions of the Social Security Act may accrue and receive, as deferred compensation for their service, retirement, survivor, and disability benefits to supplement the old age, survivors, and disability benefits provided under title II of the Social Security Act, and to encourage and facilitate savings by such employees.

"§8352. Definitions

"For the purpose of this subchapter--

"(1) 'employee' means--

"(A) an employee as defined in section 2105 of this title;

"(B) a Member of Congress as defined in section 2106 of this title;

"(C) a Congressional employee as defined in section 2107 of this title;

"(D) an employee of the United States Postal Service or the Postal Rate Commission; and

"(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838)

but does not include--

"(i) a justice or judge of the United States as defined by section 451 of title 28;

"(ii) an individual subject to another retirement system for employees of the United States; or

"(iii) an individual whose service is of a temporary or intermittent nature (other than an employee who occupies a position on a part-time career employment basis, as defined in section 3401(2) of this title) who is excluded by the appointing official or head of the agency involved or, in the case of an individual employed by an executive agency, by regulations of the Office;

"(2) 'wages' means wages as defined by section 3121(a) of title 26, but including remuneration excluded from that definition by paragraph (1) of that section;

"(3) 'Fund' means the Federal Employees' Retirement Fund established by section 8358 of this title within the Civil Service Retirement and Disability Fund under section 8348 of this title.

"(4) 'Office' means the Office of Personnel Management;

"(5) 'law enforcement officer' means an employee, the duties of whose position--

"(A) are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, or the protection of officials of the United States against threats to personal safety; and

"(B) are determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals; and

"(6) 'firefighter' means an employee the duties of whose position--

"(A) are primarily to perform work directly connected with the control and extinguishment of fires; and

"(B) are determined by the employing agency to require limiting employment opportunities to young and physically vigorous individuals.

"§8353. Contributions

"(a) Each agency employing an employee under this subchapter shall remit an amount equal to 11.6 percent of the wages of the employee to the Office each pay period for deposit in the Treasury to the credit of the Fund. In the case of a former employee who is receiving disability benefits under section 8355 of this title, the agency that employed the former employee prior to separation for disability shall remit an amount equal to 11.6 percent of the employee's final rate of basic pay, increased by the subsequent cumulative average increase in the rates of pay of the General Schedule under section 5305 of this title.

"(b) In addition to the amounts remitted under subsection (a) of this section, each agency employing an employee covered under this subchapter shall remit to the Office each pay period for deposit in the Treasury to the credit of the Fund the amounts determined by the Office to be appropriate under section 8358(b) of this title.

"(c) The amounts required to be remitted under this section shall be paid from the appropriation or fund used to pay the employees involved. In the case of an employee under this subchapter who is an elected official, the amounts remitted shall be paid from an appropriation or fund available for the payment of other pay of the same office or establishment. In the case of an employee who is paid by the Clerk of the House of Representatives, the Clerk may pay the amounts from the contingent fund of the House.

"§8354. Employee retirement accounts; payment of benefits

"(a) The amounts remitted on behalf of an employee under section 8353(a) of this title, together with the interest these amounts have earned while in the Fund, shall be held in the Fund in an account for that employee until disposed of in accordance with the provisions of this section. The Office shall, in cooperation with the agencies employing employees covered under this subchapter, provide each employee or former employee on behalf of whom an account is being held in the Fund with an annual statement of the balance in the account.

"(b) If an employee separates from employment covered under this subchapter after completing less than one continuous year of such employment, any money held in the employee's account shall be irrevocably forfeited by the employee and shall be used by the Office as provided in section 8358(b)(1) of this title.

"(c) Except as provided by subsection (b) of this section, an employee or former employee at any time after the later of reaching age 59 1/2 (or, in the case of a law enforcement officer, a firefighter, or an air traffic controller age 50) or separating from employment covered under this subchapter, may apply for and is entitled to receive--

"(1) payment of the balance held in the employee's account in a lump sum; or

"(2) payment of an annuity on the basis of the balance held in the employee's account, as provided by subsection (d) of this section.

CHOICES OF PAYMENT METHODS

"(d) The Office shall provide for a variety of forms of annuity, including annuities (1) for fixed terms of years, annuities (2) for the lives of the employee and the employee's spouse (which shall automatically be provided to each married employee unless jointly waived by the employee and the spouse), annuities (3) for the lives of the employee and an individual having an insurable interest in the employee, and (4) annuities the amount of which increases with inflation. The amount of all annuities provided under this subchapter shall be determined in accordance with generally accepted actuarial principles and standards, and without regard to sex.

SURVIVING SPOUSE BENEFIT (NO BENEFIT FOR CHILDREN)

"(e) In the case of an employee or former employee who dies after having completed at least 18 months of employment covered under this subchapter and who has not received payment of the lump-sum balance or the initial payment of annuity under subsection (c) of this section, and who is survived by a spouse, the surviving spouse shall be entitled to receive, in the form of a lump sum or an annuity, the balance in the employee's account, or in the case of an employee who dies while covered under this subchapter, the employee's final annual rate of basic pay, if such annual rate of pay is greater than the balance in the employee's account.

"(f) In the case of an employee or former employee who dies after having completed at least one year of employment covered under this subchapter and who has not received payment of the lump-sum balance or the initial payment of annuity under subsection (c) of this section, and who is not survived by a spouse entitled to benefits under subsection (e) of this section, the balance in the employee's account shall be distributed in accordance with regulations of the Office consistent with section 8342(c) of this title.

"§8355. Disability benefits

"(a) An employee who, having completed 18 months of employment covered under this subchapter--

"(1) is under a disability within the meaning of section 223 of the Social Security Act; or

"(2) if not entitled to benefits under paragraph (1), is determined by the Office to be unable, because of disease or injury, to perform useful and efficient service in the employee's position, or in any other position to which the agency is able to reassign the employee in the same commuting area and without a reduction in pay (taking into consideration benefits under subchapter VI of chapter 53 of this title);

is entitled to disability benefits in accordance with the provisions of this section.

"(b)(1) An employee who is entitled to disability benefits under paragraph (1) of subsection (a) of this section shall be paid disability benefits by the Office each month equal to 60 percent of the employee's monthly rate of basic pay immediately before separation for disability, which rate shall be increased each year by the Office on the basis of the percentage change in the Consumer Price Index. Disability benefits under this paragraph shall be reduced by the full amount of any disability benefits received by the employee under the Social Security Act.

"(2) An employee who is entitled to disability benefits under paragraph (2) of subsection (a) of this section shall be paid disability benefits by the Office each month equal to 40 percent of the employee's monthly rate of basic pay immediately before separation for disability, which rate shall be increased each year by the Office on the basis of the percentage change in the Consumer Price Index.

"(c) Disability benefits under this section shall commence on the first day of the first month beginning six months after the employee ceases, because of the disability, to perform useful and efficient service.

"(d)(1) Disability benefits for an employee who is entitled to such benefits under paragraph (1) of subsection (a) of this section shall cease on the earlier of--

"(A) the last day of the month in which the employee becomes 65 years of age; or

"(B) the last day of the month in which the employee is determined to no longer be under a disability within the meaning of section 223 of the Social Security Act.

"(2) Disability benefits for an employee who is entitled to such benefits under paragraph (2) of subsection (a) of this section shall cease on the earliest of--

"(A) the last day of the month in which the employee becomes 65 years of age;

"(B) the last day of the month in which the Office determines the employee to be medically recovered from the disability;

"(C) the last day of the month in which the Office determines that the employee has recovered earning capacity, on the basis of evidence that the employee has engaged in gainful employment reasonably comparable in earnings with the position from which the employee separated due to disability; or

"(D) the last day of the month in which the employee is reemployed by the former employing agency in a position in the same commuting area and comparable in earnings with the position from which the employee separated due to disability, or declines an offer of reemployment in such a position.

"(3) Disability benefits shall not be paid for any month during which the employee does not cooperate with any required medical examinations or course of treatment or fails to provide any information required to be submitted under regulations of the Office.

"(e) The Social Security Administration shall provide the Office with any information required by the Office for the administration of this section, notwithstanding any other provision of law.

"§8356. Early retirement

"(a) An employee covered under this subchapter who is an air traffic controller is subject to mandatory separation in accordance with section 8335(a) of this title. An employee covered under this subchapter who is a law enforcement officer or a firefighter is subject to mandatory separation in accordance with section 8335(b) of this title. Section 8335(d) of this title shall apply to employees covered by this section.

"(b) An air traffic controller, a law enforcement officer, or a firefighter who separates after completing at least 20 years of such employment (including any combination of such employment) is entitled to receive monthly payments paid by the Office in an amount determined by the Office to reasonably approximate the monthly benefits such individual would be entitled to receive under title II of the Social Security Act on the basis of such employment were the employee 62 years of age. The amount of such monthly payments shall be increased each year by the Office on the basis of the percentage change in the Consumer Price Index.

"(c)(1) Payments under this section shall commence on the later of--

"(A) the first day of the month after the month in which the employee or former employee becomes 50 years of age; or

"(B) the first day of the month after the month in which the employee separates from employment covered under this subchapter.

"(2) Payments under this section shall cease on the last day of the month in which the former employee becomes 62 years of age.

"§8357. Federal Employees' Savings Plan

"(a) The Office shall establish a Federal Employees' Savings Plan under which an employee covered under this subchapter may contribute, by means of allotments from pay, up to $5,000 per year to the employee's account in the Plan. The moneys contributed to the Plan shall be deposited in the Treasury to the credit of the Fund.

"(b) Amounts contributed to the Federal Employees' Savings Plan under this section shall not be included in the gross income of the employee for the purposes of title 26.

"(c) The balance in an employee's account in the Federal Employees' Savings Plan is available for distribution to the employee in the same manner as amounts in an individual retirement account under section 408 of title 26, and any distribution shall be treated for the purposes of title 26 as if it were the distribution of amounts in an individual retirement account.

"§8358. Federal Employees' Retirement Fund

"(a) There is established within the Civil Service Retirement and Disability Fund in the Treasury of the United States a Federal Employees' Retirement Fund, consisting of the agency contributions remitted under section 8353 of this title, employees' savings under section 8357 of this title, and interest earned by the Fund under section 8348(c) of this title. The Fund is available for the payment of benefits and distributions as provided in this subchapter and for payment of expenses of the Office in administering this subchapter, without regard to section 8348(a)(2) of this title.

"(b)(1) The Office shall determine, prior to the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of survivor benefits under section 8354(e) of this title (to the extent such cost exceeds the value of deceased employees' accounts), disability benefits under section 8355 of this title, and the expenses incurred by the Office in administering this subchapter. In determining such normal cost, the Office shall take into consideration the value of accounts forfeited under section 8354(b) of this title, which shall be available to defray the cost of such survivor benefits, disability benefits, and administrative expenses. The Office may vary the normal cost so determined on an agency-by-agency basis if the Office determines it would be appropriate to do so on the basis of differences in rate of disability between agencies.

"(2) The Office shall determine, prior to the beginning of each fiscal year, the normal cost, stated as a percentage of wages, of payments under section 8356 of this title for air traffic controllers, law enforcement officers, and firefighters.

"(3) Each agency employing an employee covered under this subchapter shall remit to the Fund, as provided in section 8353(b) of this title, an amount equal to--

"(A) the percentage of wages determined under paragraph (1) of this subsection for each employee of the agency covered under this subchapter; and

"(B) the percentage of wages determined under paragraph (2) of this subsection for each employee of the agency who is an air traffic controller, a law enforcement officer, or a firefighter covered under this subchapter.

"§8359. Administration; regulations

"(a) The Office shall administer this subchapter and shall prescribe such regulations and perform or cause to be performed such acts as are necessary and proper to carry out this subchapter. The Office may, without regard to section 5 of title 41 or other statute requiring competitive bidding, enter into contracts for the performance of any of the functions for which the Office is responsible under this subchapter.

"(b) Claims under this subchapter shall be in such form as the Office prescribes. Agencies shall support the claims by such certification as the

Office considers necessary to the determination of the rights of applicants. The Office or its designee shall adjudicate all claims under this subchapter.

"(c)(1) Except as provided in paragraph (2) of this subsection or other Federal laws, the money mentioned in this subchapter is not assignable, either in law or equity, or subject to execution, levy, attachment, garnishnishment, or other legal process.

"(2) Notwithstanding any other provision of this subchapter, the Office shall by regulation provide rights and benefits under this subchapter for spouses and former spouses of employees that are consistent with the rights and benefits provided spouses and former spouses under subchapter III of this chapter.

"(d) If payment is made to an individual under this subchapter erroneously or in an incorrect amount, recovery shall be made under regulations prescribed by the Office, which may include reduction of subsequent payments to which the individual is entitled. However, recovery may be waived if the Office determines, in its sole discretion under such procedures as it may determine appropriate, that the individual is not at fault for the erroneous or incorrect payment and recovery would be contrary to equity and good conscience.

"(e) The Office shall consult with the Board of Actuaries established under section 8347(f) of this title on the actuarial status of the Federal Employees' Retirement System and the Board shall furnish its advice on any matters referred to it by the Office.

"(f) The Office may include in the operation of this subchapter any individual who was covered by subchapter III of this chapter prior to January 1, 1984, and who elects in writing, not later than December 31, 1986, to terminate such coverage and to be covered under this subchapter. An individual who makes such an election shall be deemed, for purposes of the Social Security Act, title 26, and section 8331(1)(x) of this title to have first become employed by the United States after December 31, 1983. There shall be transferred to the employee's account in the Federal Employees' Retirement Fund the balance of any contributions made by such individual to the Civil Service Retirement and Disability Fund, plus an equal amount representing the agency's contributions, plus an amount determined appropriate by the Office to represent the interest such employee and agency contributions have earned while invested in the Civil Service Retirement and Disability Fund. For the purposes of determining entitlement to benefits under this subchapter and disability and survivors benefits under the Social Security Act, the period during which such individual was employed subject to subchapter III of this chapter shall be deemed to have been employment under this subchapter and under the Social Security Act.

"(g) The Federal Employees' Retirement System established under this subchapter shall be deemed a qualified plan for the purposes of title 26.".

(b) The analysis for chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV--FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"§8351. Purpose.
"§8352. Definitions.
"§8353. Contributions.
"§8354. Employee retirement accounts; payment of benefits.
"§8355. Disability benefits.

"§8356. Early retirement.
"§8357. Federal Employees' Savings Plan.
"§8358. Federal Employees' Retirement Fund.
"§8359. Administration; regulations.".

(c) Section 8331 of title 5, United States Code, is amended--

(1) in paragraph 1--

(A) after subparagraph (viii) by striking out "or";

(B) in subparagraph (ix) by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(C) by adding after subparagraph (ix), as amended, the following new subparagraph:

"(x) an employee covered by the Social Security Act by reason of having become employed by the United States after December 31, 1983."; and

(2) in paragraph (2)--

(A) by striking out "after he gives" and inserting in lieu thereof "who, prior to January 1, 1984, gave"; and

(B) by inserting immediately before the semicolon the following: "and whose election has remained continuously in effect and who does not elect to terminate such coverage under section 8359(f) of this title".

Sec. 3. Section 8901(3)(A) of title 5, United States Code, is amended by inserting "or IV" after "subchapter III".

Sec. 4. An employee who has been a covered employee under the Civil Service Retirement System under section 203(a)(1) of Public Law 98-168, and who was not employed by the Government on December 31, 1983, shall be covered under the Federal Employees' Retirement System as enacted by section 2 of this Act, effective on January 1, 1986. There shall be transferred to the employee's account in the Federal Employees' Retirement Fund the balance of any contributions made by such a covered employee under section 204(a) of Public Law 98-168, plus the agency contributions with respect to that employee under section 204(b) of that Public Law, plus the amount of the contribution deficiency with respect to that employee under section 205 of that Public Law, plus an amount determined appropriate by the Office of Personnel Management to represent the interest such money has earned while invested in the Civil Service Retirement and Disability Fund. The employee's covered service under section 203(a)(3) of Public Law 98-168 shall be deemed employment under subchapter IV of chapter 83 of title 5, United States Code, as added by section 2 of this Act.

Sec. 5. The Office of Personnel Management shall determine the unfunded liability (including the effects of future pay increases and future cost-of-living adjustments) of the Civil Service Retirement System under subchapter III of chapter 83 of title 5, United States Code, and shall notify the Secretary of the Treasury of the amounts needed to amortize that unfunded liability in 40 equal annual installments. On September 30, 1987, and at the close of each fiscal year thereafter, the Secretary of the Treasury shall credit to the Civil Service Retirement and Disability Fund, out of any money in the Treasury not otherwise appropriated, the annual installment so determined until the unfunded liability has been paid. The Office of Personnel Management may, from time to time, increase or decrease the amount of the annual installment to the extent actuarial gains and losses result in changes in the remaining unfunded liability.

Sec. 6. (a) The amendments made by sections 2 and 3 of this Act are effective on January 1, 1986.

(b) Notwithstanding any other provision of law, the Secretary of the Treasury shall advance to the Office of Personnel Management, out of any funds in the Treasury not otherwise appropriated, such moneys as the Director may require in order to establish necessary administrative arrangements for the Federal Employees' Retirement System, with such money as is advanced to be repaid to the Treasury, with interest at a rate specified by the Secretary, not later than January 1, 1996, out of amounts set aside in the Federal Employees' Retirement Fund for administrative expenses.

Charlie –

I have gone about as far as I can go with the OPM Supplemental until Hustead info comes in. I left a package on Joe's desk that contains:

1. Outline of Bill's Provisions
2. Limited narrative
3. Revision of Briefing Book re references to Administration's Supplemental Plan (or absence thereof)

Will be glad to come back whenever you or Joe want. Just give me a call.

Bill
4/2/84

Comments on: Federal Employees Retirement System Act of 1985

(OPM Supplemental Plan)

Basic Provisions

This Plan is essentially a defined contribution plan with the basis for benefits being an accumulation of principle and interest on 11.6% of salary contributed by the Government. The employee contributes nothing. While the employee is vested after one year of service, retirement benefits cannot be drawn until age 59 1/2 (age 50 for law enforcement officers, fire fighters, and air traffic controllers). Benefits may, at the election of the employee, be in the form of a lump sum, or a fixed term or life annuity. The latter may be opted for either with or without COLA, however, the basic annuity is less when the COLA option is selected.

This Plan provides disability benefits roughly comparable to those of the current retirement systems except that they do not begin until six months after cessation of work. Survivor benefits are significantly less generous. For instance, the surviving spouse of a deceased employee would be entitled to either a lump sum payment or an annuity based on the greater of the balance in the deceased employees Retirement Fund account or one year's wages. The surviving spouse could, however, be eligible for Social Security benefits over and above this amount.

This Plan also provides for a "Federal Employees' Savings Plan" which permits employees to voluntarily put up to $5,000 per year into the Retirement Fund. No Government contribution or matching funds are provided for. Such voluntary contributions would be treated the same as Individual Retirement Accounts (IRA's) for withdrawal and tax purposes (i.e., no withdrawal until age 59 1/2; deferral of tax on interest until withdrawal; contributions excluded from gross income for tax purposes). This provision is essentially a liberalizing of the amount one can put into an IRA and obviously of no real assistance to lower grade employees. This feature has not been approved by the Internal Revenue Service (IRS) and may meet some opposition from IRS.

This Plan also provides for early retirement of law enforcement officers, fire fighters, and air traffic controllers. These special category employees are permitted to begin drawing benefits from the Retirement Fund at age 50 after 20 years of such special service and the plan further provides that they will receive a supplemental payment the equivalent of Social Security benefits from the date of their retirement until they actually become eligible for Social Security benefits. CIA employees are not included in this special provision of the Plan nor is there any special provision for "discontinued service" cases.

This Plan deals strictly with the providing of retirement benefits and does not address the utility of a retirement system as a management tool to tailor the work force. As such it is counter to the best interests of this Agency. It would result in employees being forced to retire at older ages.

Comments

The projections for a defined contribution plan produce impressive balances over a full career. However, it is important to keep these in the perspective of inflation. According to our consultant, general economic theory is that investment return will be about 2% higher than inflation over the long run. Therefore, expected earnings of, for instance 9%, must be discounted by at least 7% a year to reveal the real dollar value of the accumulated balances.

Projected funds of a million dollars or more with annual returns of $100,000 appear very comfortable. However, if the retiree faces a price tag of $100,000 for a new car and has to pay $10 for a quart of milk, and $4 for a daily newspaper, the income takes on new perspective.

A retirement program based strictly on a defined contribution pension plan would have devastating impact on the Agency's ability to maintain an effective work force.

The attached tables provided by Ed Hustead of Hay Associates (converted to current dollar equivalents) compare benefits under current CIARDS and CSRS with benefits received from a defined contribution plan where 14% (OPM's plan calls for 11.6%) of salary was invested over a career. In all cases, even if a supplement equal to Social Security is provided at the time of retirement, the annuity levels are less than under existing systems. The levels are significantly less if retirement is before age 62. (Hustead is providing data on OPM's proposal, but it is not currently available due to prior commitments on his part in dealing with the current Congressional studies.)

Such a plan would not support the early retirement requirements of this Agency and employees would have to work much longer to acquire sufficient annuity levels. Conversely, similar to the Stevens' proposal, the turnover of younger employees would be significantly increased by the portability aspects of such a plan and the DCI's management flexibility severely hampered in maintaining a quality work force.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM (FERS)
(PROPOSED SUPPLEMENTAL PLAN OF OPM)

Employee Pays:	Nothing
Government Pays;	11.6% of salary into Federal Employees Retirement Fund.
Retirement Eligibility:	Age 59 1/2 with one or more years of service (Age 50 for law enforcement officers, fire fighters, air traffic controllers.)
Retirement Benefit:	Accumulation of principle and interest in employee's account in the FERS, payable at employee's election as: 1. Lump sum, or 2. Annuity for fixed, term of years, or 3. Life annuity for employees and spouse, or 4. Life annuity for employee and person with insurable interests, or 5. Annuity with COLA (Law enforcement officers, fire fighters, and air traffic controllers also received a supplement equal to Social Security benefit from date of retirement to date eligible for Social Security.)
Disability Benefit:	60% of salary if totally disabled, or 40% of salary if unable to perform current position (must have 18 months service to be eligible for disability benefits; benefits begin 6 months after work ceases; benefits are offset by any Social Security Disability Benefits)
Survivor/Benefits:	Surviving spouse of deceased employee with 18 months service is entitled to lump sum payment or an annuity based on balance in employee's FERS account. (Will be based on one year's salary, if balance in account is less than that amount.)
Voluntary Contribution Plan	Employee may elect to deposit up to $5,000 per year in the Retirement Fund under provisions comparable to those applicable to IRA's. (No matching funds by government.)

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Need info from Hustead before we can make further comment on.

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I. FORWARD

The special nature and mission of the Central Intelligence Agency (CIA), as recognized in the Central Intelligence Agency Act of 1949, dictates that CIA must have a specially structured work force unique and distinct from that found elsewhere in the U.S. Government. Agency management has successfully met this need through existing retirement systems. The many and extensive changes that are being considered and proposed to restructure Federal retirement systems demand the Agency's close attention in order to properly protect the present successful retirement system.

This booklet has been prepared to:

- Provide background on why these issues are being considered.
- Assess how various proposed changes to the retirement systems impact on our efforts to maintain a work force capable of producing intelligence responsive to national security interests.
- Show how the Agency retirement system functions as a management tool.
- Define what the Agency's retirement program goals and requirements are.

II. BACKGROUND

A. The Social Security Amendment of 1983

Included in the Social Security Amendment of 1983 was a provision that made all Federal employees hired on or after 1 January 1984 subject to the full Social Security System. Federal employees hired prior to 1 January 1984 are covered only by the Medicare portion of Social Security. In order to prevent Federal employees hired on or after 1 January 1984 from paying the full contributions for Social Security and Federal retirement (13.7%), legislation was passed in December 1983 to temporarily reduce the total contributions to 8% (8.35% during 1985). This temporary measure, effective only until 31 December 1985, leaves unspecified what retirement benefits new employees will receive for their 1.3% contribution to the retirement system. Consequently, Congress must develop a "supplemental" retirement plan for Social Security covered employees, or extend the current interim measure beyond its stated 31 December 1985 deadline. If neither of these measures are taken by 31 December 1985, Federal employees hired on or after 1 January 1984 will be required to pay fully for both Social Security and Federal retirement (14.05%). Thus, Congress and the Administration will be considering various legislative actions during the 99th Session of Congress to equalize benefits for both categories of federal employees. The following section outlines where they are at this time.

B. Retirement Considerations by 99th Congress

1. Administration's Proposed Bill to Effect Budget Proposals for FY 1986

Included in the Administration's budget for FY 1986 are several proposals to reduce costs through changes in the current Federal retirement system. These proposals are as follows:

(a) Raise the minimum retirement age for full benefits under the Civil Service Retirement System (CSRS) from 55 to 65; (for the CIA Retirement and Disability System [CIARDS] from 50 to 60). Law enforcement officers, fire fighters, and air traffic controllers are excluded from this provision.

(b) Reduce annuities at retirement by 5% for each year under age 65 (60 for CIARDS). Those presently age 55 (50 for CIARDS) would not be subject to such reductions. For employees under 55, retirement would still be permitted at age 55 with reductions.

(c) Eliminate the January 1986 cost-of-living (COLA) for retirees.

(d) Calculate 1987 and later COLAs based on the lower of the increase in General Schedule pay or the Consumer Price Index. Full indexing would be applied to the first $10,000 of pension income. Amounts above $10,000 would be increased by 55% of the index factor.

(e) Phase out retirement credit for unused sick leave over a four-year period. This would not apply to employees eligible to retire before 1 October 1985. (Employees who become eligible in FY 1986 could retain use of 80% of unused sick leave, FY 1987 - 60%, etc.). Employees who become eligible for retirement after 30 September 1989 would not receive any credit for unused sick leave.

(f) Change CSRS formula to calculate annuities based on the highest five years of earnings rather than the present high-three years. This would not apply to employees who become eligible to retire before 1 October 1988.

(g) Conform Civil Service survivor, adult student, and minimum benefits to those provided by Social Security.

(h) Change benefits payable to survivors from no age restriction, to age 60 or if disabled, to age 50.

2. Supplemental Retirement Legislation

a. Stevens' Proposal.

~~Regarding supplemental retirement,~~ Senator Stevens, Chairman of the Civil Service, Post Office, and General Services Subcommittee of the Committee on Governmental Affairs, ~~is~~ has prepared ~~proposing~~ legislation which would provide supplemental retirement benefits for ~~includes Social Security coverage for~~ all Federal employees hired on or after 1 January 1984. As a supplement to Social Security coverage to which they are already entitled, this proposal offers the following major ingredients:

- A defined benefit plan (.85% times high-five average salary times years of service) with no employee contribution.
- A voluntary capital accumulation plan (with 401k tax advantages) with Federal funds added to encourage participation (employees permitted to contribute up to 10% of their salary with the first 4% matched by two dollars for each dollar contributed).
- Basic benefits from the defined benefit plan would be fully payable at age 62 with 10 years of service.
- Employees could retire at age 55 with 30 years service, but benefits would be reduced by 2% for each year under age 62.
- The bill provides special benefits for fire fighters, law enforcement officers, and air traffic controllers who could retire with <u>unreduced</u> benefits at age 55 with 25 years service.

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This ~~The new retirement~~ legislation would also permit optional participation by ~~provide an option for~~ Federal employees hired prior to 1 January 1984. ~~to participate in the new system.~~

b. OPM Proposal (See draft wording for this new paragraph)

c. While the House is also working on a supplemental retirement plan, there is the potential that they will review the Stevens' bill before reaching a final decision, but their proposal is not expected to appear for several more months. The House proposal, if presented is expected to incorporate, in addition to Social Security, a defined benefit plan and a 401k type capital accumulation plan. Unlike the Senate and OPM versions, however, the Chairman of the House Post Office and Civil Service Committee has indicated his desire to have the supplemental plan's benefits as comparable as possible to current programs. As such, the House proposal would probably not include heavy emphasis on the capital accumulation plan. The current CIARDS program is untouched by supplemental retirement.

III. STATUS OF RETIREMENT PROPOSALS

A. Administration's Proposals

1. Current Retirement System

The Administration's budget proposals have been submitted to the Congress for consideration. To date, there has not been particularly strong support in the Congress for any of the budget proposals. However, based on discussions with our consultants and committee staffers, it appears if any measures are adopted they will be the elimination of the FY 1986 COLA and reduction of future COLAs under a formula similar to the Administration's. This would result in significant immediate dollar savings against the existing deficit. Also, the previously proposed increase in employee contributions to the retirement system of 7% to 9% might be considered as an offset to adopting a 5% pay cut recommended by the Administration. The initial congressional hearing on the budget proposals affecting retirement ~~were~~ was conducted on 26 February 1985 by the Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee. This hearing chaired by Mary Rose Oakar (Democrat - Ohio) did not generate any support for the Administration's position. This Committee is responsible for making recommendations to the House Budget Committee, and indications are recommendation will be for outright rejection of all the current proposals.

The Senate has not held hearings at this time. Section III D contains implications of the 1986 budget proposal on the CIA.

2. Supplemental Retirement System

The Office of Personnel Management has presented its proposal for a supplemental retirement plan to the Office of Mangement and Budget, and they in turn ~~have~~ asked the various departments and agencies for comments. The Agency provided comment to OMB advising that: ~~23 April 1985. Inasmuch as this is a defined contribution plan, it lacks the "management tool" aspects of the type of retirement system essential to this Agency.~~ We believe that OPM's proposed supplemental ~~See Attachment 4~~ retirement system does not meet the Agency's needs and would have a detrimental impact on the Agency's ability to effectively undertake and fulfill its mission. (See Attachment 3A)

B. Stevens' Bill - Supplemental Retirement

To date, the Stevens' proposal is the only substantive draft on supplemental retirement which has surfaced in the Congress, although the House is expected to introduce its recommendation in the near future.

~~Senator Stevens is expected to introduce his bill in March 1985 with hearings following closely thereafter.~~ ~~This~~ proposal, with its heavy emphasis on a voluntary capital accumulation plan and limited defined benefit, presents several problems for the Agency in attaining retirement program objectives. Discussion on these implications follows in Section III D.

Senator Stevens is not yet satisfied that he has strong employee union support. He has slowed his time table ~~that~~ which initially called for introduction of a bill in early March, hearings to be held through Spring, and passage by the Senate in Summer. He hopes that by holding his proposal in abeyance, employee groups will rally behind him. Until this occurs, Senator Stevens will not move.

C. Defined Contribution Plan

Under a strict defined contribution plan, the Government would place in an investment fund a prescribed amount of money which would earn interest at market rates. The contributions and earned investment would then represent the employee's annuity at the time of retirement. The Government has no further obligations after investing the money, and the employee is at the risk of the market place. On the surface, this approach appears very attractive, especially when computing high interest returns. Such a program, however, would offer severe problems in maintaining the effectiveness of the Agency retirement systems as a management tool. Implications to the CIA are discussed in the following section.

D. Implications of Retirement Proposals to CIA

1. Administration's 1986 Budget Proposals

Of the FY 1986 budget proposals, the most significant issue would raise the retirement age for an annuity without reduction from age 55 to age 65. Retirement would be permitted at earlier ages, but employees who retire before age 65 would have their annuities reduced by 5% for each year they are under age 65 at the time of retirement. Employees who are age 55 at the time of enactment would not be affected. The Office of Management and Budget already has indicated they will seek to raise the CIARDS retirement age from 50 to 60 with the same 5% per year penalty for early retirement under age 60. The overall thrust of all of the retirement changes is that employees will have to pay more for less attractive annuities and will have to work longer in order to qualify for retirement without reduction.

The impact of the Federal retirement proposals will be particularly heavy and adverse for the CIA. For instance,

25X1 a. As of ~~There are currently~~ [redacted] employees were eligible for
25X1 voluntary retirement under the CSRS; of these, [redacted]
25X1 hold SIS rank. As of that same date [redacted] CIARDS participants
25X1 are immediately eligible for retirement; of these, [redacted]
25X1 [redacted] hold the rank of SIS. Even though there will be a grandfather clause protecting current entitlements for

certain age groups, not all SISers are protected, and there is the risk that because of general unhappiness with the attack on Government benefits many may choose to leave now. The attached charts 1 through 4 reflect the potential seriousness of this event in which 67% of SIS and 37% of GS-14/15 level employees under CIARDS are eligible to retire immediately. The result could be a disastrous loss of experienced, key personnel and their ultimate replacements.

b. We believe that an even more critical loss to this Nation and the Agency would be in our extraordinarily competent and highly motivated mid-career personnel in the 35 to 50 age range. It is this group that is hardest hit by the retirement issue because they will have to revise their plans for the future, [redacted] taking into account that they will incur the most severe reductions in retirement benefits. The loss of this group will be impossible to replace. (The attached letter [Attachment 3] from one of these officers indicates their sentiment.) The devastating impact of this happening will be reflected in the long term because we will not have qualified successors to replace the current leadership, and we will not have sufficient replacements for the mid-level career group.

c. In order to recruit the brightest young men and women to help fulfill the CIA mission, the Agency has had much to offer, such as:

(1) We can promise a meaningful career in an area of vital importance to our Nation's welfare and a career which exposes employees to the most sensitive intelligence information, and which allows them to make a significant contribution to the Agency's mission.

(2) We assure them that outstanding performance is rewarded with continuing advancement to positions of increasing responsibility. ~~if their performance warrants it.~~

(3) We provide the opportunity to serve a full career while permitting them, at the same time, full retirement at an age that still leaves time to pursue second careers as their energy levels become seriously depleted from the pressures and tension created by intelligence work. (Chart 5 shows average ages of retirees under CIARDS and CSRS.)

The proposed budget retirement changes would not permit us to offer options 2 and 3 above and, thus, seriously impact on our entire personnel management capabilities.

d. As noted earlier, retirement proposals would change the career nature of Agency employment by dramatically lengthening the service of current Agency employees and prospective hires. The lengthening of service by as much as 10 years would have a serious impact on promotions and could require the Agency to undertake reductions in force in order to offer promotions to deserving officers. Charts 6 through 9 show the devastating impact of the annuity levels of those retiring at age 50 under CIARDS and 55 under CSRS. The reduced annuity levels would not support early retirement. As such, the current retirement system would be destroyed as an important management tool.

e. Another major concern of the Administration's proposals relates to changes in benefits payable to any widow, widower, or survivor (of any employee) who has not attained age 60, or has not reached age 50 if disabled, or is not caring for a child. It is particularly important to Agency employees who serve overseas and/or are otherwise in above risk situations to know that their spouses would have at least minimum survivor benefits, regardless of age, if they were to die.

2. Stevens' Bill

The Stevens' bill, which will be given serious consideration this year, does have some extreme disadvantages when assessing it against Agency needs and objectives in a retirement system. The attached charts 10 through 15a provide comparisons of benefits from Stevens' bill to benefits received under current CIARDS and CSRS.

If CIARDS type employees were included under the special provisions (fire fighters, law enforcement, etc.) sections of the Stevens' bill, the benefits come relatively close to the current CIARDS (see charts 10 through 12a). For regular CSRS employees, the benefits under the Stevens' bill are substantially less at age 55 (see chart 13a). Current employees who elect to transfer to the new systems similarly would not achieve the same benefit levels as the current systems (charts 16 through 17a).

The achievement of Agency objectives (young and vigorous, flow through, etc.) relies on the retirement systems allowing individuals to retire early with sufficient annuity to sustain those retirements. The Stevens' bill works counter to these objectives in several ways:

a. It places too heavy an emphasis on <u>voluntary</u> contributions by employees, and there is great potential for individuals, particularly lower-graded employees, to opt not to participate. The attached data assumes a 4% (of salary) contribution by employees for their entire career with an 8% contribution by the Government. Lesser contributions would result in even lower benefits.

b. The data clearly shows that parity with current systems, particularly CSRS, is not achieved until the employee reaches age 62. The result is that employees who remain for a full career would be encouraged to stay on longer to achieve the benefits needed to sustain retirement.

c. The portability features (Social Security and a large capital accumulation plan) would encourage increased turnover of younger, mid-level employees, particularly those who are marketable in the private sector; i.e., the very ones we seek to retain and groom for executive-level positions. The availability of significant dollar amounts in a capital accumulation plan which can be taken with the employee upon separation encourages transfers when more lucrative paying jobs are available. Recruiting a steady flow of qualified replacements would not be easy, and the exposure of highly sensitive material to a significantly increased number of individuals presents some very real security risks. In addition to all of this, the employee ends up paying more than the current 7% (5.7% to Social Security + 4% to the capital accumulation plan) for less benefits.

The net result of these factors is that early voluntary retirement would essentially disappear. This, coupled with substantially increased turnover of younger, marketable employees, would severely hamper the DCI's flexibility in maintaining an effective work force to meet our national security requirements.

3. Defined Contribution Plan

The projections for a defined contribution plan produce impressive balances over a full career. However, it is important to keep these in the perspective of inflation. According to our consultant, general economic theory is that investment return will be about 2% higher than inflation over the long run. There-

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fore, expected earnings of, for instance 9%, must be discounted by at least 7% a year to reveal the real dollar value of the accumulated balances.

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A retirement program based strictly on a defined contribution pension plan would have a devastating impact on the Agency's ability to maintain an effective work force. The attached charts 18 through 27a prepared by our consultant/actuary provide comparisons of benefits provided by two such plans to those of the current CIARD and CSR Systems. The data has been converted to current dollar terms and is reflective of plans in which 14% of salary and 8% of salary are invested on behalf of the employee. Social Security benefits are added at age 62.

It is clearly evident that the value of a defined contribution plan comes up far short of present benefits, such a plan would not support the early retirement requirements of this Agency, and employees would have to work much longer to acquire sufficient annuity levels. Conversely, similar to the Stevens' proposal, the turnover of younger employees would be significantly increased by the portability aspects of such a plan and the DCI's management flexibility severely hampered in maintaining a quality work force.

4. Administration's Supplemental Plan

The Administration's supplemental plan is a defined contribution plan, ~~and~~ therefore, the comments in the previous paragraph are equally applicable. It should also be noted that adoption of this plan would give the Agency no option similar to the current discontinued service provision.

CONTENTS

a. Stevens Proposal
b. Administration (OPM) Proposal
c. House Proposal

EXECUTIVE SUMMARY

I. INTRODUCTION

IN 1985, CONGRESS WILL BE ADDRESSING SEVERAL PROPOSALS WHICH COULD AFFECT THE RETIREMENT BENEFITS FOR ALL AGENCY EMPLOYEES. IN THEIR PRESENT FORMS, THESE PROPOSALS COULD PRESENT FUTURE PROBLEMS FOR CENTRAL INTELLIGENCE AGENCY (CIA). THIS BOOKLET IS INTENDED TO PROVIDE BACKGROUND INFORMATION FOR ANY WHO MAY BE INVOLVED IN DISCUSSIONS ON THE RETIREMENT ISSUE.

II. BACKGROUND

A. IN 1983, THE ADMINISTRATION PROPOSED SIGNIFICANT REFORMS IN THE FEDERAL RETIREMENT SYSTEM AS PART OF A PACKAGE WHICH ADDRESSED RETIREMENT BENEFITS FOR FEDERAL EMPLOYEES HIRED AFTER 31 DECEMBER 1983. THE 1983 PROPOSAL ESSENTIALLY ELIMINATED EARLY RETIREMENT BY EMPLOYEES WHO DECIDE TO SPEND THEIR CAREERS IN THE FEDERAL SERVICE. TYPICAL RETIREMENT WOULD HAVE BEEN AT AGE 65 OR OLDER WITH 35 TO 40 YEARS OF SERVICE IN ORDER TO QUALIFY FOR FULL ANNUITY AND PENSION BENEFITS. LEGISLATION WHICH RESULTED FROM THOSE INITIATIVES MADE NO CHANGE IN EXISTING FEDERAL RETIREMENT PROGRAMS, BUT DID CAUSE EMPLOYEES HIRED AFTER 31 DECEMBER, 1983 TO BE INCLUDED IN THE SOCIAL SECURITY SYSTEM. THE PRESENTATIONS THAT HAVE BEEN PUT FORTH BY THE ADMINISTRATION FOR THE FY 1986 BUDGET IS, THEREFORE, BASICALLY A REPEAT OF THE INITIATIVES WHICH FAILED FOR THE FY 1984 CYCLE.

UNCLASSIFIED WHEN SEPARATED
FROM ATTACHMENTS 1 AND 2

B.. THERE ARE TWO DISTINCT PACKAGES WHICH MAY OR MAY NOT BE ADDRESSED BY CONGRESS DURING THE CURRENT SESSION.

1. A SUPPLEMENTAL SYSTEM DESIGNED TO SUPPLEMENT RETIREMENT BENEFITS FOR THOSE PEOPLE HIRED AFTER 31 DECEMBER 1983 AND COVERED BY SOCIAL SECURITY BENEFITS. IN PUBLIC LAW 98-168 OF 29 NOVEMBER 1983, CONGRESS MANDATED THAT A NEW GOVERNMENT RETIREMENT SYSTEM FOR THESE NEW EMPLOYEES SHOULD BE IN PLACE ON OR BEFORE 1 JANUARY 1986. THE APPLICABLE PARAGRAPH OF THAT LAW IS SECTION 203 (A) (4) WHICH READS AS FOLLOWS:

> "THE TERM NEW GOVERNMENT RETIREMENT SYSTEM MEANS ANY RETIREMENT SYSTEM WHICH, (A) IS ESTABLISHED FOR OFFICERS AND EMPLOYEES OF THE GOVERNMENT BY OR PURSUANT TO A LAW ENACTED AFTER DECEMBER 31, 1983 AND BEFORE JANUARY 31, 1986, AND (B) TAKES EFFECT ON OR BEFORE JANUARY 31, 1986."

ALTHOUGH CONGRESS CAN, OF COURSE, CHANGE THE INSTRUCTION BY SIMPLY PASSING ANOTHER LAW, THIS ONE IS ON THE BOOKS AND PRESUMABLY WILL TAKE PRECEDENCE IN THE SITTING CONGRESS.

2. THE ADMINISTRATION PROPOSAL FOR A CHANGE IN THE RETIREMENT SYSTEM WHICH IS SPECIFIED IN THE BUDGET PROPOSAL FOR FY 1986 (PAGE 5-119) IN SUM INCLUDES THE FOLLOWING:

a. REDUCE THE ANNUITIES OF EMPLOYEES RETIRING BEFORE AGE 65 (AGE 60 FOR CIA RETIREMENT AND DISABILITY SYSTEM [CIARDS]);

b. LOWER COST OF LIVING ADJUSTMENTS;

c. CHANGE THE BASE ON WHICH BENEFITS ARE COMPUTED FROM HIGH THREE TO HIGH FIVE;

d. PHASE OUT RETIREMENT CREDIT FOR UNUSED SICK LEAVE; AND,

e. CONFORM CIVIL SERVICE SURVIVOR, ADULT STUDENT, AND MINIMUM BENEFITS TO THOSE PROVIDED BY SOCIAL SECURITY.

THE ADMINISTRATION ESTIMATES, IN ITS BUDGET PROPOSAL, THAT IN 1986 THE PACKAGE OF CIVIL SERVICE RETIREMENT REFORMS WILL INCREASE RECEIPTS BY 269 MILLION DOLLARS AND REDUCE OUTLAYS BY 731 MILLION DOLLARS. COST IS THE DRIVING FORCE BEHIND THESE RECOMMENDATIONS.

* → 3. (See draft of new para 3.)

III. OBJECTIVES

A. TO ENABLE THE AGENCY TO ACHIEVE ITS MISSION, A REVISED RETIREMENT PLAN SHOULD:

1. HELP US MAINTAIN A YOUNG AND VIGOROUS WORK FORCE;

2. CONTRIBUTE AS PART OF THE TOTAL EMPLOYEE COMPENSATION PACKAGE TO OUR EFFORTS TO RECRUIT AND RETAIN EMPLOYEES FOR A FULL CAREER;

3. RETAIN THE DIRECTOR'S MANAGEMENT FLEXIBILITY AS NOW EXISTS IN THE CENTRAL INTELLIGENCE AGENCY RETIREMENT SYSTEM AND EXTEND THIS FLEXIBILITY TO ALL EMPLOYEES;

4. TO BE ESTABLISHED IN SUCH A WAY AS TO ENABLE US TO PROTECT THE IDENTITY AND SECURITY OF ALL OUR EMPLOYEES; AND,

C. At Tab A is a copy of the D/Pers' testimony before the House Cmte. on Post Office & Civil Svc.

5. SPECIFICALLY REWARD SERVICE OVERSEAS, ESPECIALLY A CAREER OF OVERSEAS SERVICE. AGENCY EMPLOYEES OVERSEAS SHOULD GET AT LEAST EQUIVALENCY WITH DOMESTIC LAW ENFORCEMENT AGENCIES.

B. SPECIFICALLY:

1. EARLY RETIREMENT ELIGIBILITY THAT EXISTS UNDER CIARDS AND THE CIVIL SERVICE RETIREMENT SYSTEM (CSRS) SHOULD BE RETAINED; AND,

2. ANNUITY LEVELS MUST BE SUFFICIENT TO SUSTAIN EARLY RETIREMENT, I.E., A 2% ACCRUAL RATE FOR CIARDS OR THE EQUIVALENT THEREOF IF A VOLUNTARY CAPITOL ACCUMULATION PLAN IS ESTABLISHED, SHOULD BE RETAINED.

C. ATTACHMENTS 1 AND 2 are letters from the DCI TO THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET (OMB) AND to the CHAIRMAN, HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE (HPSCI). They REFLECT THE SPECIFIC MISSION REQUIREMENTS THAT MUST BE MET BY THE AGENCY RETIREMENT SYSTEM.

IV. <u>STATUS</u>

AS OF 1 MARCH 1985, THE FOLLOWING IS THE STATUS OF THE VARIOUS PROPOSALS:

A. <u>ADMINISTRATION'S PLAN</u>

1. <u>CURRENT RETIREMENT SYSTEM</u>:

THE ADMINISTRATION'S BUDGET PROPOSALS HAVE BEEN SUBMITTED TO THE CONGRESS FOR CONSIDERATION. TO DATE, THERE HAS BEEN NO PARTICULARLY STRONG SUPPORT FOR ANY OF THE BUDGET PROPOSALS BEING CONSIDERED BY THE CONGRESS. HOWEVER, BASED ON DISCUSSIONS WITH OUR

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CONSULTANTS AND COMMITTEE STAFFERS, IT APPEARS IF ANY MEASURES ARE ADOPTED THEY WILL BE THE ELIMINATION OF THE FY 1986 COLA AND REDUCTION OF FUTURE COLAs WHICH OFFER SIGNIFICANT IMMEDIATE DOLLAR SAVINGS AGAINST THE EXISTING DEFICIT. ALSO, THE PREVIOUSLY PROPOSED INCREASE IN EMPLOYEE CONTRIBUTIONS TO THE RETIREMENT SYSTEM OF 7% TO 9% MIGHT BE CONSIDERED AS AN OFFSET TO ADOPTING THE 5% PAY CUT RECOMMENDED BY THE ADMINISTRATION. THE INITIAL CONGRESSIONAL HEARING ON THE BUDGET PROPOSALS AFFECTING RETIREMENT WERE CONDUCTED ON 26 FEBRUARY 1985 BY THE SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS OF THE HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE. THIS HEARING DID NOT GENERATE ANY SUPPORT FOR THE ADMINISTRATION'S POSITION. THIS COMMITTEE IS RESPONSIBLE FOR MAKING RECOMMENDATIONS TO THE FULL HOUSE AND INDICATIONS ARE THEY WILL RECOMMEND OUTRIGHT REJECTION OF ALL THE CURRENT PROPOSALS.

THE SENATE HAS NOT HELD HEARINGS AT THIS TIME.

2. SUPPLEMENTAL RETIREMENT SYSTEM:

~~THE ADMINISTRATION HAS NOT, AS YET, PRESENTED ITS PROPOSAL FOR A SUPPLEMENTAL RETIREMENT PLAN. HOWEVER, SUCH A PROPOSAL CAN BE EXPECTED IN THE NEAR FUTURE AND INDICATIONS ARE THAT IT WILL CORRESPOND TO THE SAME AUSTERE RECOMMENDATIONS CONTAINED IN THE FY 1986 BUDGET PROPOSALS WITH HEAVY EMPHASIS ON PORTABILITY FEATURES; I.E., DEFINED CONTRIBUTION PLAN WITH SUCH A PLAN COSTING ABOUT 20% OF PAYROLL (PAGE 5-118 OF FY 1986 BUDGET).~~

☆☆ (See draft of replacement wording.)

B.. CONGRESS

SUPPLEMENTAL RETIREMENT

BOTH THE HOUSE AND THE SENATE WILL INTRODUCE LEGISLATIVE PROPOSALS ON THE SUPPLEMENTAL RETIREMENT ISSUE. TO DATE, THE STEVENS' PROPOSAL and the OPM Bill are THE ONLY SUBSTANTIVE items WHICH have SURFACED, ALTHOUGH THE HOUSE IS EXPECTED TO INTRODUCE ITS RECOMMENDATION IN THE NEAR FUTURE.

STEVENS' PROPOSAL

THIS PROPOSAL IN ADDITION TO SOCIAL SECURITY OFFERS:

- A DEFINED BENEFIT PLAN (.85% TIMES HIGH-FIVE AVERAGE SALARY TIMES YEARS OF SERVICE); AND,
- A VOLUNTARY CAPITAL ACCUMULATION PLAN WITH FEDERAL FUNDS ADDED TO ENCOURAGE PARTICIPATION (EMPLOYEES PERMITTED TO CONTRIBUTE UP TO 10% OF THEIR SALARY WITH THE FIRST 4% MATCHED BY TWO DOLLARS FOR EACH DOLLAR CONTRIBUTED).
- BASIC BENEFITS FROM THE DEFINED BENEFIT PLAN WOULD BE FULLY PAYABLE AT AGE 62 WITH 10 YEARS OF SERVICE.
- EMPLOYEES COULD RETIRE AT AGE 55 WITH 30 YEARS SERVICE BUT BENEFITS WOULD BE REDUCED BY 2% FOR EACH YEAR UNDER AGE 62.

- THE BILL PROVIDES SPECIAL BENEFITS FOR FIRE FIGHTERS, LAW ENFORCEMENT OFFICERS, AND AIR TRAFFIC CONTROLLERS WHO COULD RETIRE WITH UNREDUCED BENEFITS AT AGE 55 WITH 25 YEARS SERVICE.

~~SENATOR STEVENS IS EXPECTED TO INTRODUCE THIS BILL IN MARCH 1988 WITH HEARINGS FOLLOWING CLOSELY THEREAFTER.~~

THIS PROPOSAL WITH ITS HEAVY EMPHASIS ON VOLUNTARY CAPITAL ACCUMULATION PLAN AND LIMITED DEFINED BENEFIT PRESENTS SEVERAL PROBLEMS FOR THE AGENCY IN ATTAINING RETIREMENT PROGRAM OBJECTIVES.

V. ARGUMENTATION

OUR CASE SHOULD BE BUILT ON TWO BASIC FOUNDATIONS:

A. THE AGENCY HAS A SPECIAL, UNIQUE MISSION WHICH REQUIRES SPECIAL PERSONNEL AUTHORITIES, THE KEYSTONE OF WHICH IS FLOW THROUGH.

B. A SYSTEM HAS BEEN DEVELOPED THAT WORKS; DON'T FIX IT.

1. THE VERY NATURE OF THE INTELLIGENCE WORK OF THE 1980s CARRIES WITH IT HEAVY AND UNRELENTING PERSONAL AND MANAGERIAL STRESS. INTELLIGENCE IS OUR FIRST LINE OF DEFENSE AND THE CONTINUATION OF A YOUNG AND VIGOROUS WORK FORCE CAPABLE OF MEETING THESE RIGOROUS DEMANDS IS ESSENTIAL TO THIS COUNTRY'S NATIONAL SECURITY. INABILITY TO RECRUIT AND MAINTAIN THE BEST TALENT WILL SEVERELY HAMPER OUR CAPABILITY TO COLLECT AND PROVIDE THE BEST POSSIBLE INTELLIGENCE.

2. THE CURRENT RETIREMENT SYSTEMS HAVE WORKED WELL AND BEEN COMPATIBLE WITH THE AGENCY'S NEED TO MAINTAIN THE RIGHT CALIBRE OF PERSONNEL AND ACHIEVING MANAGERIAL OBJECTIVES. THE EARLY RETIREMENT FEATURES OF BOTH CIARDS AND CSRS PROVIDE FOR RETAINING EMPLOYEES THROUGH THEIR MOST PRODUCTIVE YEARS AND THEN RETIRING THEM BEFORE THEIR EMPLOYMENT BECOMES DETRIMENTAL TO THE AGENCY'S EFFECTIVENESS. NEW RETIREMENT PROGRAMS MUST CONTINUE THIS FLEXIBILITY TO ALLOW FOR THE FLOW THROUGH OF PROMISING YOUNG OFFICERS TO ENSURE CONTINUITY OF OUR INTELLIGENCE CAPABILITIES AS LONGER-TERM EMPLOYEES LOSE THEIR EFFECTIVENESS THROUGH BURNOUT, EXPOSURE TO HOSTILE FORCES AND DECLINE IN STATE-OF-THE-ART KNOWLEDGE.

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b. LOWER COST OF LIVING ADJUSTMENTS;

c. CHANGE THE BASE ON WHICH BENEFITS ARE COMPUTED FROM HIGH THREE TO HIGH FIVE;

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3. The Administration's proposed supplemental plan is a defined contribution plan which contains the following provisions:

a. Government contributes 11.6% of salary into the fund. The employee contributes nothing.

b. Benefits are based on the accrued principle and interest in the employee's fund account. Benefits may, at election of employee be lump sum, or specified term annuity, or life annuity, with or without a COLA provision.

c. Employee is vested in fund after one year of service and may begin drawing benefits at age 59 1/2.

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d. Disability benefits roughly comparable to present provisions. Survivor benefits restricted to surviving spouse and are equal to greater of balance in employee's account or one year's salary.

e. Law enforcement officers, fire fighters, and air traffic controllers may begin drawing benefits at age 50 with 20 years of such special service, and will receive additional payment equal to Social Security benefit until such time as actually eligible for Social Security. (CIA employees not included in this provision.)

f. Employee may contribute up to $5,000 of his/her own funds into Retirement Fund under rules similar to Individual Retirement Accounts (IRA's). No matching funds by government.

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4. TO BE ESTABLISHED IN SUCH A WAY AS TO ENABLE US TO PROTECT THE IDENTITY AND SECURITY OF ALL OUR EMPLOYEES; AND,

and agencies for comments.

ASKED THE VARIOUS DEPARTMENTS ~~BY 23 APRIL 1985~~. INASMUCH AS THIS IS A DEFINED CONTRIBUTION PLAN, FORCING EMPLOYEES TO WORK TO OLDER AGES, ITS PASSAGE WOULD BE DETRIMENTAL TO THIS AGENCY AND TAKE AWAY ITS ABILITY TO STRUCTURE AN APPROPRIATE WORK FORCE. EVEN IF THE PLAN'S SPECIAL PROVISIONS FOR LAW ENFORCEMENT OFFICERS, FIRE FIGHTERS AND AIR TRAFFIC CONTROLLERS WERE BROADENED TO INCLUDE CIARD'S EMPLOYEES, THE PLAN WOULD STILL NOT MEET THE SPECIFIC NEEDS OF THIS AGENCY.

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SUPPLEMENTAL RETIREMENT

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III. BACKGROUND

A. The Social Security Amendment of 1983

Included in the Social Security Amendment of 1983 was a provision that made all Federal employees hired on or after 1 January 1984 subject to the full Social Security System. Federal employees hired prior to 1 January 1984 are covered only by the Medicare portion of Social Security. In order to prevent Federal employees hired on or after 1 January 1984 from paying the full contributions for Social Security and Federal retirement (13.7%), legislation was passed in December 1983 to temporarily reduce the total contributions to 8% (8.35% during 1985). This temporary measure, effective only until 31 December 1985, leaves unspecified what retirement benefits new employees will receive for their 1.3% contribution to the retirement system. Consequently, Congress must develop a "supplemental" retirement plan for Social Security covered employees, or extend the current interim measure beyond its stated 31 December 1985 deadline. If neither of these measures are taken by 31 December 1985, Federal employees hired on or after 1 January 1984 will be required to pay fully for both Social Security and Federal retirement (14.05%). Thus, Congress and the Administration will be considering various legislative actions during the 99th Session of Congress to equalize benefits for both categories of Federal employees. The following section outlines where they are at this time.

(e) Phase out retirement credit for unused sick leave over a four-year period. This would not apply to employees eligible to retire before 1 October 1985. (Employees who become eligible in FY 1986 could retain use of 80% of unused sick leave, FY 1987 - 60%, etc.). Employees who become eligible for retirement after 30 September 1989 would not receive any credit for unused sick leave.

(f) Change CSRS formula to calculate annuities based on the highest five years of earnings rather than the present high-three years. This would not apply to employees who become eligible to retire before 1 October 1988.

(g) Conform Civil Service survivor, adult student, and minimum benefits to those provided by Social Security.

(h) Change benefits payable to survivors from no age restriction to age 60 or if disabled, to age 50.

2. Supplemental Retirement Legislation

Stevens' Proposal. Senator Stevens, Chairman of the Civil Service, Post Office, and General Services Subcommittee of the Committee on Governmental Affairs, has prepared legislation which would provide supplemental retirement benefits for all Federal employees hired on or after 1 January 1984. As a supplement to Social Security coverage to which they are already entitled, this proposal

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offers the following major ingredients:

- A defined benefit plan (.85% times high-five average salary times years of service) with no employee contribution.
- A voluntary capital accumulation plan (with 401k tax advantages) with Federal funds added to encourage participation (employees permitted to contribute up to 10% of their salary with the first 4% matched by two dollars for each dollar contributed).
- Basic benefits from the defined benefit plan would be fully payable at age 62 with 10 years of service.
- Employees could retire at age 55 with 30 years service, but benefits would be reduced by 2% for each year under age 62.
- The bill provides special benefits for fire fighters, law enforcement officers, and air traffic controllers who could retire with unreduced benefits at age 55 with 25 years service.

This legislation would also permit optional participation by Federal employees hired prior to 1 January 1984.

b. Administration (OPM) Proposal. The Office of Personnel Management has drafted legislation to supplement the Social Security coverage of Federal employees hired on or after 1 January 1984. The provisions of this plan are:

- A defined contribution plan funded by a government contribution of 11.6% of salary. No employee contribution.

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The Senate has not held hearings at this time. Section III D contains implications of the 1986 budget proposal on the CIA.

2. Supplemental Retirement System

The Office of Personnel Management has presented its proposal for a supplemental retirement plan to the Office of Management and Budget, and they in turn asked the various departments and agencies for comments. The Agency provided comments to OMB advising that ~~this~~ Inasmuch ~~as~~ this is a defined contribution plan, it lacks the ~~"management tool" aspects~~ of the type of retirement system essential ~~to this Agency~~. We believe ~~that~~ OPM's proposed supplemental retirement system does not meet the Agency's needs and would have a detrimental impact on the Agency's ability to effectively undertake and fulfill its mission. (See Attachment 3A)

B. Stevens' Bill - Supplemental Retirement

To date, the Stevens' proposal is the only substantive draft on supplemental retirement which has surfaced in the Congress, although the House is expected to introduce its recommendation in the near future.

His proposal, with its heavy emphasis on a voluntary capital accumulation plan and limited defined benefit, presents several problems for the Agency in attaining retirement program objectives. Discussion on these implications follow in Section III D.

Senator' Stevens is not yet satisfied that he has strong employee union support. He has slowed his time table which initially called for introduction of a bill in early March, hearings to be held through Spring, and passage by the Senate in Summer. He hopes that by holding his proposal in abeyance, employee groups will rally behind him. Until this occurs, Senator Stevens will not move.

C. Defined Contribution Plan

Under a strict defined contribution plan, the Government would place in an investment fund a prescribed amount of money which would earn interest at market rates. The contributions and earned investment would then represent the employee's annuity at the time of retirement. The Government has no further obligations after investing the money, and the employee is at the risk of the market place. On the surface, this approach appears very attractive, especially when computing high interest returns. Such a program, however, would offer severe problems in maintaining the effectiveness of the Agency retirement systems as a management tool. Implications to the CIA are discussed in the following section.

c. The portability features (Social Security and a large capital accumulation plan) would encourage increased turnover of younger, mid-level employees, particularly those who are marketable in the private sector; i.e., the very ones we seek to retain and groom for executive level positions. The availability of significant dollar amounts in a capital accumulation plan which can be taken with the employee upon separation encourages transfers when more lucrative paying jobs are available. Recruiting a steady flow of qualified replacements would not be easy and the exposure of highly sensitive material to a significantly increased number of individuals presents some very real security risks. In addition to all of this, the employee ends up paying more than the current 7% (5.7% to Social Security + 4% to the capital accumulation plan) for less benefits.

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